IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 32743 of 2007(W)

OS.188/2002 of MUNSIF COURT, KANJIRAPPALLY
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PETITIONER:

P.C.CHACKO, S/O.CHACKO,PANTHIRUNELIL HOUSE, PONKUNNAM PO.

BY ADV. SRI.S.SREEKUMAR
SRI.S.VAIDYANATHAN

RESPONDENTS:
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1. P.J.MATHEW,S/O. KUNJACKO OUSEPH, AGED 67 PANTHIRUVELIL, MANIPUZHA, ERUMELY PO PIN 686 509.

2. P.C.ANTONY MEMORIAL TRUST PONKUNNAM, REPRESENTED BY ITS TRUSTEE THOMAS MATHEW,S/O.P.M.MATHEW,PANTHIRUVELIL PONKUNNAM P.O., PIN 686 506.

3. SHEEBA BAIJU, ST MARY'S ENGINEERING WORKS, KANJIRAPPALLY-686 507.

4. ANTONY,S/O. LATE JOSEPH PANTHIRUVELIL, PONKUNNAM-686 506.

5. CHACKO, S/O. LATE JOSEPH PANTHIRUVELIL, PONKUNNAM-686 506.

BY ADV. SRI.LIJI.J.VADAKEDOM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P(C) 32743/07

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF PLAINT IN O.S. NO: 188/2002 OF MUNSIFF'S COURT, KANJIRAPPALLY

EXT.P2: -DO- OF THE I.A.NO: 1670/07 IN O.S.NO: 188/07 OF MUNSIFF'S COURT, KANJIRAPPALLY

EXT.P3: -DO- OF THE OBJECTION FILED BY THE PETITIONER

EXT.P4: -DO- OF ORDER DT. 19.10.2007 IN I.A. NO: 1670/2007

jj /TRUE COPY/

P.S. TO JUDGE

M.N. KRISHNAN, J.

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W.P.C. NO. 32743 OF 2007

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Dated this the 17th day of December, 2007.

J U D G M E N T

This writ petition is preferred against the order of the Munsiff, Kanjirappally whereby she had allowed an application for transposition of the defendants 129 and 130 as additional plaintiffs. After hearing the matter for some time I feel transposition is not necessary in this case for the reason that a supporting defendant in the suit for partition can be characterized as a co-plaintiff and therefore he can always let in evidence on behalf of the plaintiff. If transposition is allowed at this stage it may require amendment of the plaint. Most probably it will affect the jurisdictional aspect as well. Therefore, I set aside the order passed by the learned Munsiff and permit the plaintiff to examine D-129 and D-130 as the witnesses on the plaintiff's side and it goes without saying that the contesting defendants will be at liberty to cross-examine them in

support of their contentions. I make it further clear that this order shall not stand in the way of any compromise between the parties.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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